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AN ACT

RELATING TO PUBLIC ACCOUNTANCY; PROVIDING FOR THE NONRENEWAL OF CERTIFICATES AND PERMITS WITHOUT A HEARING FOR FAILURE TO PAY RENEWAL FEES; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-28B-9 NMSA 1978 (being Laws 1999, Chapter 179, Section 9) is amended to read:

"61-28B-9. ISSUANCE AND RENEWAL OF CERTIFICATE--  
MAINTENANCE OF COMPETENCY.--

A. The board shall grant or renew a certificate upon application and demonstration that the applicant's qualifications are in accordance with the 1999 Public Accountancy Act or that they are eligible under the substantial equivalency standard provided in that act.

B. The board may establish by rule for the issuance of annual certificates and may prescribe the expiration date of certificates. Failure to pay the renewal fee shall be cause for the board to withhold renewal of a certificate without prior hearing pursuant to the provisions of the Uniform Licensing Act. If the renewal fee and delinquency fee are not paid within ninety days after the expiration date of the license, the certificate shall be subject to cancellation. A certificate holder whose certificate has been canceled for failure to pay the annual

1 renewal fee may secure reinstatement of the certificate only  
2 upon application and payment of the renewal fee and  
3 reinstatement fee and upon approval by the board.

4 C. The board shall grant or deny an application  
5 for certification no later than one hundred twenty days after  
6 the complete application is filed.

7 D. If an applicant appeals the decision of the  
8 board to deny a certificate, the board may issue a  
9 provisional certificate for no longer than ninety days while  
10 the board reconsiders its decision.

11 E. To renew a certificate, a certificate holder  
12 shall provide satisfactory proof to the board of continuing  
13 professional education that is designed to maintain  
14 competency. Continuing professional education courses shall  
15 comply with board rules. The board may create an exception  
16 to the requirement to maintain continuing professional  
17 education for certificate holders who do not provide services  
18 to the public. A certificate holder granted such an  
19 exception must place the word "inactive" or "retired"  
20 adjacent to his certified public accountant title or  
21 registered public accountant title on a business card,  
22 letterhead or other document or device, except for a  
23 board-issued certificate.

24 F. An applicant for initial issuance or renewal of  
25 a certificate pursuant to this section shall list all foreign

1 and domestic jurisdictions in which the applicant has applied  
2 for or holds a designation to practice public accountancy.

3 The applicant shall also list any past denial, revocation or  
4 suspension of a certificate, license or permit. An applicant  
5 or certificate holder shall notify the board in writing,  
6 within thirty days of the occurrence of any issuance, denial,  
7 revocation or suspension of a designation or commencement of  
8 a disciplinary or enforcement action by any jurisdiction."

9 Section 2. Section 61-28B-13 NMSA 1978 (being Laws  
10 1999, Chapter 179, Section 13, as amended) is amended to  
11 read:

12 "61-28B-13. FIRM PERMITS TO PRACTICE, ATTEST  
13 EXPERIENCE, PEER REVIEW.--

14 A. The board may grant or renew a permit to  
15 practice as a firm to an applicant that demonstrates its  
16 qualification for the permit as provided in Subsection E of  
17 this section. A firm must hold a permit issued pursuant to  
18 the provisions of the 1999 Public Accountancy Act in order to  
19 provide attest services or use the title "certified public  
20 accountant", "CPA", "certified public accountant firm", "CPA  
21 firm", "registered public accountant", "RPA", "registered  
22 public accountant firm" or "RPA firm".

23 B. Permits shall be issued and renewed for periods  
24 not more than two years, expiring on June 30 of the year of  
25 expiration. Failure to pay the renewal fee shall be cause

1 for the board to withhold renewal of a permit without prior  
2 hearing pursuant to the provisions of the Uniform Licensing  
3 Act. If the renewal fee and delinquency fee are not paid  
4 within ninety days after the expiration of the permit, the  
5 permit shall be subject to cancellation. A firm whose permit  
6 has been canceled for failure to pay the annual renewal fee  
7 may secure reinstatement of the permit upon application and  
8 payment of the renewal fee and upon approval by the board.

9 C. The board shall grant or deny an application  
10 for a permit no later than ninety days after the complete  
11 application is filed.

12 D. If an applicant appeals the decision of the  
13 board to deny a permit, the board may issue a provisional  
14 permit for no longer than ninety days while the board  
15 reconsiders its decision.

16 E. An applicant for initial issuance or renewal of  
17 a permit shall demonstrate that:

18 (1) a simple majority of the ownership of  
19 the firm, in terms of financial interests, profits, losses,  
20 dividends, distributions, options, redemptions and voting  
21 rights of all partners, officers, shareholders, members or  
22 managers, belongs to holders of a certificate who are  
23 licensed in some state. Such partners, officers,  
24 shareholders, members or managers, whose principal place of  
25 business is in New Mexico, and who perform professional

1 services in New Mexico, must hold a valid certificate. The  
2 firm and all owners must comply with the 1999 Public  
3 Accountancy Act. A firm may include owners who are not  
4 certificate holders; provided that:

5 (a) the firm designates a New Mexico  
6 certificate holder who is responsible for the proper  
7 registration of the firm and identifies that individual to  
8 the board;

9 (b) all owners who are not certificate  
10 holders are active individual participants in the certified  
11 public accountant firm or registered public accountant firm  
12 or affiliated entities; and

13 (c) the firm complies with the 1999  
14 Public Accountancy Act; and

15 (2) an individual certificate holder who is  
16 responsible for supervising attest services or signs or  
17 authorizes someone to sign the accountant's report on the  
18 financial statements on behalf of the firm meets the  
19 experience requirements set out in the professional standards  
20 for such services.

21 F. An applicant for initial issuance or renewal of  
22 a permit shall be required to register each office of the  
23 firm within New Mexico with the board and to show that all  
24 attest services rendered in this state are under the charge  
25 of a person holding a valid certificate issued pursuant to

1 the 1999 Public Accountancy Act or the corresponding  
2 provision of prior law or by some other state.

3 G. An applicant for initial issuance or renewal of  
4 a permit shall list all foreign and domestic jurisdictions in  
5 which it has applied for or holds permits as a certified  
6 public accountant firm and list any past denial, revocation  
7 or suspension of a permit by any jurisdiction. Each permit  
8 holder or applicant shall notify the board in writing, within  
9 thirty days of the occurrence of a change in the identities  
10 of partners, officers, shareholders, members or managers  
11 whose principal place of business is in this state, a change  
12 in the number or location of offices within this state, a  
13 change in the identity of the persons in charge of such  
14 offices and any issuance, denial, revocation or suspension of  
15 a permit by another jurisdiction.

16 H. A firm that falls out of compliance with the  
17 provisions of the 1999 Public Accountancy Act due to changes  
18 in firm ownership or personnel shall take corrective action  
19 to bring the firm back into compliance as quickly as  
20 possible. The board may grant a six-month period for a firm  
21 to take the corrective action. Failure to bring the firm  
22 back into compliance within six months shall result in the  
23 suspension or revocation of the firm permit.

24 I. As a condition to permit renewal, the board  
25 shall require the applicant to undergo a peer review

1 conducted in accordance with board rules. The review shall  
2 include a verification that a person in the firm who is  
3 responsible for supervising attest services and signs or  
4 authorizes someone to sign the accountant's report on the  
5 financial statements on behalf of the firm meets the  
6 experience requirements set out in the professional standards  
7 for the services as required by the board.

8 J. If a partner, shareholder or member is a legal  
9 business entity, that legal business entity must be a firm.

10 K. Attest services may only be provided by a  
11 certificate holder or a member of a firm that satisfies the  
12 requirements of this section. Attest services may not be  
13 performed by a certificate holder who is a member of a firm  
14 that does not meet the certificate holder's ownership  
15 requirements set forth in this section."

16 Section 3. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2005. \_\_\_\_\_